

State of Utah
Administrative Rule Analysis

NOTICE OF CHANGE IN PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-50	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Clyde Ormond	801-530-6254	801-530-6511	cormond@utah.gov

(Interested persons may inspect this administrative rule at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	Title of rule or section (catchline):
	Private Probation Provider Licensing Act Rules
3.	Type of notice: Change in Proposed Rule
	Changes original proposed rule file no.: 27435
4.	Purpose of the rule or reason for the change:
	Following a public rule hearing, written comments received and further review by the Division and Board, additional amendments are being made to the proposed rule.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	Yes ___; No XX
6.	Summary of the rule change:

	Section 502-Unprofessional Conduct: Paragraph (4) added the word "potential" to conflict of interest to thus change the meaning to include not only conflicts of interest but also potential conflicts of interest. Paragraph (4)(a) deleted "drug, tobacco and/or alcohol" rehabilitation services and replaced it with "education and/or" rehabilitation services.
7.	<p>Aggregate anticipated cost or savings to:</p> <p>A) State budget:</p> <p>The Division does not anticipate any further costs beyond those previously identified in the original rule filing affecting this rule.</p> <p>B) Local government:</p> <p>Proposed amendments do not apply to local governments. Therefore, there are no anticipated costs or savings to local government.</p> <p>C) Other persons:</p> <p>The proposed amendments may impact licensed private probation providers who have previously misinterpreted the statute and have conflicts of interest or potential conflicts of interest with clients, causing them to now change their procedures in performing the standards of probation supervision. For those private probation providers who in the past have been simultaneously providing mental health therapy services, education and/or rehabilitation services, or other services for which the licensee receives compensation and private probation services to the offender, the proposed amendments may mean a loss of revenue in the thousands of dollars.</p>
8.	<p>Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>The proposed amendments may impact licensed private probation providers who have previously misinterpreted the statute and have conflicts of interest or potential conflicts of interest with clients, causing them to now change their procedures in performing the standards of probation supervision. For those private probation providers who in the past have been simultaneously providing mental health therapy services, education and/or rehabilitation services, or other services for which the licensee receives compensation and private probation services to the offender, the proposed amendments may mean a loss of revenue in the thousands of dollars.</p>
9.	<p>Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>Other than the potential fiscal impact to the regulated industry as mentioned above, there appears to be no fiscal impact to other businesses as a result of this rule filing which clarifies existing standards as to a licensee's duty to disclose conflicts of interest. Klarice A. Bachman, Executive Director</p>
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</p> <p>Section 58-50-1 and Subsections 58-50-5(1), 58-50-9(5), 58-1-106(1)(a) and 58-1-202(1)(a)</p>
11.	<p>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p> <p></p>
12.	<p>The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p> <p>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 01/14/2005</p>

	B) A public hearing (optional) will be held:		
	on (mm/dd/yyyy):	at (time):	At (place):
13.	This rule change may become effective on (mm/dd/yyyy):		01/15/2005
	NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):		
	licensing	probation	
	private probation provider		
15.	Attach an RTF document containing the text of this rule change (filename):		R156-50.cpr
To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:		J. Craig Jackson, Director	Date (mm/dd/yyyy): 11/15/2004

ChangeInProposedRule.doc 9/26/2003

R156. Commerce, Occupational and Professional Licensing.

R156-50. Private Probation Provider Licensing Act Rules.

R156-50-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) failing to comply with the continuing professional education requirement of Section R156-50-304;

(2) failing to comply with the operating standards required for a presentence report;

(3) failing to properly supervise the offender as set forth in the probation agreement;

(4) failing to disclose any potential conflict of interest relating to supervision of an offender as set forth in Subsection 58-50-2(5), including, but not limited to the following circumstances:

(a) simultaneously providing mental health therapy services and private probation services to the same offender;

(b) simultaneously providing education and/or [~~drug, tobacco and/or alcohol~~]rehabilitation services and private probation services to the same offender; or

(c) while providing private probation services to an offender, also providing any other service to the offender for which the licensee receives compensation;

(5) accepting any amount of money or gratuity from an offender other than that fee which is set forth in the probation agreement; or

(6) failing to report any violation of the probation agreement.

KEY: licensing, probation, private probation provider

[~~2004~~]2005

Notice of Continuation April 26, 2001

58-50-1

58-1-106(1)(a)

58-1-202(1)(a)

58-50-5(1)

58-50-9(5)